## BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI.

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### I.

### Opinions of the Court Below.

The Supreme Court of Texas wrote no opinion in this matter.

### II.

### Jurisdiction.

1. The decree to be reviewed is dated October 16, 1940 (R. 58).

2. The statutory provision which is believed to sustain the jurisdiction of this Court is R. S. 690, 709; Title 28 U. S. C. A., Sec. 344 (b): "where any title, right, privilege, or immunity is specially set up or claimed by either party under the Constitution".

### III.

### Statement of the Case.

The statement of this case made in the preceding petition is here adopted.

### IV.

### Specification of Errors.

The Supreme Court of Texas erred in denying the writ prayed for by the petitioner.

### V.

### Argument.

The uncontroverted facts show that petitioner has never been present in the State of Texas, and that the Texas

courts have never had jurisdiction over its person, and that it has no agent within the State of Texas; the uncontroverted facts show further that notwithstanding the circumstances, the respondent, the District Judge of the 72nd Judicial District of Texas, will proceed to trial of the suit filed against petitioner by the other respondents herein disregarding the lack of jurisdiction and the lack of service. These facts are shown by the evidence of the petitioner's officers taken by deposition and by the evidence of the alleged agent, K. H. Page, taken in another case in which petitioner was defendant (R. 31-53).

The Supreme Court of the State of Texas, under Articles 1733 and 1734 of the Texas Statute, had jurisdiction of the petition for mandamus filed therein by the petitioner.

The relief sought by the petitioner has been previously granted by the Supreme Court of Texas. *Seagraves* v. *Green,* 288 S. W. 417; *State* v. *Ferguson,* 125 S. W. (2d) 272.

The circumstances in which petitioner finds itself are almost exactly like those described in the case of *Michigan Central R. Company* v. *Mix,* 278 U. S. 492, 73 L. Ed. 470.

The relief sought in this Court is the same as that sought by the petitioner in that case which was granted by this Court.

The relief sought is likewise the same as that sought by the petitioner in the case of *Consolidated Textile Corporation* v. *Gregory,* 289 U. S. 85; 77 L. Ed. 1047.

The protection claimed by the petitioner under the Fourteenth Amendment to the Federal Constitution was made the basis of the petition for mandamus filed in the Supreme Court of Texas and was made a part of its argument in support of its petition (R. 5 and 57).

It is, therefore, respectfully submitted that this case is one calling for the exercise by this Court of its supervisory

powers by granting a writ of certiorari and thereafter reviewing and reversing said decision.

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